Competition Bureau Canada
Bureau de la concurrence Canada

ANNUAL REPORT

OF THE
COMMISSIONER OF COMPETITION
FOR THE YEAR ENDING
MARCH 31, 2011

Canada

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LETTER OF PRESENTATION

Gatineau, Quebec

The Honourable Christian Paradis, PC, MP
Minister of Industry
Ottawa, Ontario K1A 0H5

Dear Minister,

I have the honour to submit, pursuant to section 127 of the Competition Act, the following report on the operation of the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act* for the fiscal year ended March 31, 2011.

Melanie Aitken
Commissioner of Competition

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MESSAGE FROM THE COMMISSIONER

I am pleased to present the Competition Bureau's (Bureau) Annual Report, for the fiscal year ending March 31, 2011.

Over the course of the past year, we have successfully navigated the implementation of significant amendments to the *Competition Act* (Act), and through a principled enforcement approach, have seen a number of high-profile cases come to fruition.

Three such cases are an abuse of dominance investigation involving the Canadian Real Estate Association (CREA), a misleading advertising investigation involving Rogers Chatr mobile phone brand, and a price maintenance investigation involving Visa and MasterCard. These cases demonstrate our willingness to bring responsible cases forward if we are unable to reach a consensual resolution that fully addresses our concerns.

Combatting cartels and bid-rigging continues to be one of the Bureau's top priorities and, thanks to the amendments, we are now better positioned to pursue these types of anti-competitive activities. In 2010-2011, investigations in this area led to $3 million in fines against companies that fixed the price of refrigeration compressors, and criminal charges against eight companies and five individuals accused of rigging bids for private sector ventilation contracts in Montreal, Quebec.

In January 2011, the Bureau applied to the Competition Tribunal (Tribunal) for an order to dissolve CCS Corporation's acquisition of Complete Environmental, owner of the proposed Babkirk Secure Landfill in British Columbia. The Bureau concluded that by purchasing, rather than competing with, the landfill CCS would prevent entry of competition into that market. This is the first merger challenge since 2005 and is a testament to our willingness to take on responsible cases regardless of size.

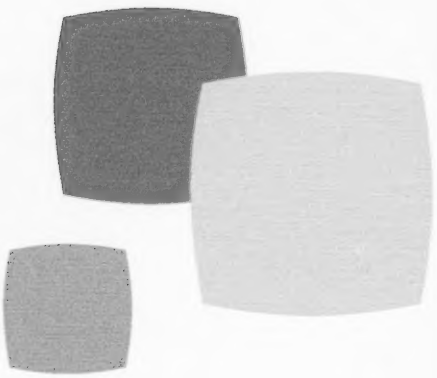
We also continue to be on the lookout for misleading representations. In the Bureau's case against Rogers Communications Inc., we have asked the Ontario Superior Court of Justice, among other conditions, to impose an administrative monetary penalty (AMP) of $10 million for what we concluded were misleading representations regarding its Chatr brand discount cell phone and text service.

Aside from our case achievements, the Bureau also released an updated *Fee and Service Standards Handbook for Mergers and Merger-Related Matters* for public consultation, confirmed our enforcement approach in our Enforcement Guidelines for *"Product of Canada" and "Made in Canada" Claims*, and announced our intent to revise our *Merger Enforcement Guidelines*.

The Bureau anticipates another busy and exciting year for 2011-2012 as we continue to deliver on the mandate given to us by Parliament to ensure that Canadian businesses and consumers prosper in a competitive and innovative marketplace.

Melanie Aitken
Commissioner of Competition

1. ABOUT THE COMPETITION BUREAU



1. ABOUT THE COMPETITION BUREAU

The Bureau, as an independent law enforcement agency, ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace.

Headed by the Commissioner of Competition (Commissioner), the Bureau is responsible for the administration and enforcement of the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act*.

This annual report summarizes the Bureau's activities under these statutes for the fiscal year ending March 31, 2011. It demonstrates how the Bureau's activities over the past year have benefited Canadians. For additional information on the activities described throughout the report, including information notices, news releases, and backgrounders, please visit the Bureau's Media Centre at: www.competitionbureau.gc.ca. For statistical data, please refer to the Appendix, at the end of this report.

1.1 Organizational Structure

The Commissioner is the head of the Bureau. The Bureau is organized into eight branches.

The Civil Matters Branch is responsible for detecting and deterring restrictive trade practices that have a negative impact on competition, such as abuse of dominance, refusal to deal, exclusive dealing, tied-selling and price maintenance. Activities of concern can also extend to certain types of anti-competitive agreements or arrangements of a non-criminal nature.

The Criminal Matters Branch is responsible for detecting, investigating, and deterring hard core cartels including conspiracies, agreements or arrangements among competitors and potential competitors to fix prices, allocate markets or restrict supply, and bid-rigging. The Branch also actively reaches out to stakeholders engaged in procurement to enable them to detect and deter bid-rigging and other cartel activities.

The Fair Business Practices Branch is responsible for promoting a competitive marketplace by deterring deceptive business practices. The Branch administers and enforces the provisions of the Act on misleading representations and deceptive marketing practices. The Branch also enforces the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Precious Metals Marking Act* and the *Textile Labelling Act*.

The Mergers Branch reviews merger transactions to assess whether mergers are likely to prevent or substantially lessen competition in the marketplace.

The Compliance and Operations Branch oversees the Bureau's electronic evidence and conversion units. It manages the Bureau's Information Centre, as well as Bureau-wide planning, resource management, administration and informatics activities. The Branch ensures that employees and managers have the necessary tools to conduct their work.

The Economic Policy and Enforcement Branch provides economic advice and expertise, as well as enforcement support, to the Bureau's Chief Economist and to the Bureau as a whole.

The Legislative and International Affairs Branch advances fair and efficient competition principles through legislative, regulatory, and policy development. Through participation and leadership in international competition fora, the Branch fosters strong relationships with key partners, advances and reinforces the Bureau's enforcement priorities,

and co-ordinates international efforts to promote competitive markets and effective competition law enforcement.

The Public Affairs Branch is responsible for the Bureau's communications. It ensures that Canadian consumers, businesses, parliamentarians and the international community are aware of the Bureau's contributions to competition in the marketplace and to the growth of the Canadian economy.

The Competition Bureau Legal Services Unit of the Department of Justice Canada is responsible for providing legal services to the Commissioner and for representing the Commissioner on all matters other than those for which the Public Prosecution Service of Canada is responsible.

The Competition Law Section of the Public Prosecution Service of Canada is responsible for initiating and conducting criminal prosecutions on behalf of the Attorney General of Canada and for advising the Bureau on criminal investigations.

1.2 Bureau Operations

The Bureau's operating budget for 2010-2011 was $50.6 million, including $10.9 million collected from user fees. The majority of the budget, $35.3 million, was allocated to salaries for 440.5 authorized full-time staff, consisting of 29 executives, 10 economists in the Economic Policy and Enforcement Branch, 253 competition law officers, and 148.5 employees carrying out enforcement support, informatics, administrative services, and other corporate functions.

The Bureau has administrative responsibility for collecting fines imposed by the courts as well as AMPs issued by the Competition Tribunal (Tribunal) or the courts. In 2010-2011, $8.25 million in fines were imposed and $160 000 in AMPs were issued. This money is remitted to the Government of Canada's Consolidated Revenue Fund.

By the end of 2010-2011, in a continued effort to realign priorities and resources, the Bureau had reduced its number of employees, through attrition, to 420. Of that number, 328 were located in the National Capital Region, and 92 in seven regional offices.

[1] Industry Canada's 2010-2011 Report on Plans and Priorities.

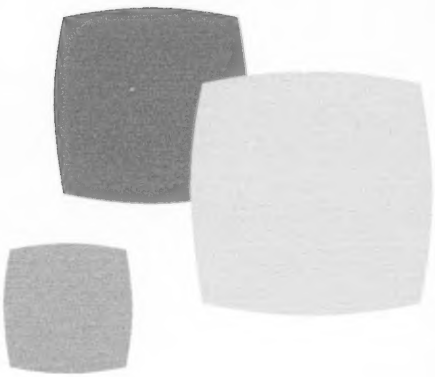
1.3 Priorities 2010-2011

The Bureau had several priorities in 2010-2011[1]:

Competition Bureau Priorities
1. Continue to focus its efforts on the effective implementation of amendments to the Act, many of which came into force on March 12, 2009.
2. Clarify key enforcement issues in the areas of abuse of dominance, competitor collaborations and price maintenance, to ensure increased transparency, clarity and predictability for all Canadians.
3. Continue to focus its enforcement efforts on domestic bid-rigging, abuse of dominance and timely and effective merger reviews.
4. Target mass marketing fraud over the Internet, as part of the Bureau's ongoing effort to ensure that Canadians know how to better protect themselves from fraudulent claims, to better recognize scams and to avoid falling victim to such scams.
5. Continue to advocate for greater reliance on competition and work with federal, provincial, and territorial governments, where appropriate, on strategies that address market inefficiencies, to further strengthen the Canadian marketplace.

The Bureau's key achievements against these priorities are demonstrated throughout this report.

2. MODERNIZING CANADA'S COMPETITION LAW



2. MODERNIZING CANADA'S COMPETITION LAW

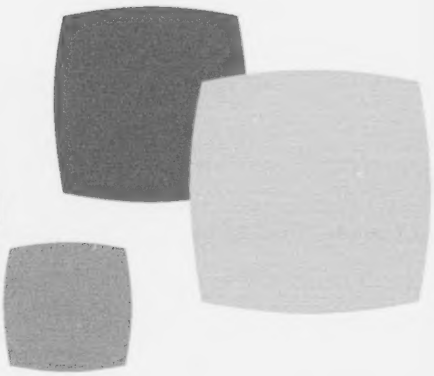
As reported in the 2009-2010 Annual Report, the Government of Canada introduced significant amendments to the Act in January 2009, which were designed to modernize the Act and to align it more closely with the competition laws of Canada's major trading partners.

The majority of these amendments received Royal Assent and came into force on March 12, 2009. The remaining amendments, relating to reform of the conspiracy provisions and new provisions on competitor collaborations, came into force on March 12, 2010. The coming into force of these latter sections of the Act was delayed for one year to allow businesses time to adjust to the new law.

The Bureau revised a number of guidance documents both last year and this year to ensure that businesses and consumers understand the new provisions and the Bureau's enforcement approach. In September 2010, the Bureau released two updated Bulletins on "Regulated" Conduct and Corporate Compliance Programs to incorporate changes brought about by the amendments to the Act. In October and November 2010, after extensive consultations with stakeholders, the Bureau published several updated merger-related guidance documents and we introduced amended *Notifiable Transactions Regulations*. The Bureau also issued its *Fee and Service Standards Handbook for Written Opinions*, and further clarified its Enforcement Guidelines for *"Product of Canada" and "Made in Canada" Claims*.

These documents are described in detail in Chapter 4 of this report.

3. BRANCH HIGHLIGHTS 2010 – 2011



3. BRANCH HIGHLIGHTS 2010 – 2011

The Bureau, through the committed work of its branches, delivered on its priorities and had numerous successes in the past year.

3.1 Civil Matters Branch

The Civil Matters Branch administers and enforces provisions of the Act relating to abuse of dominance, as well as refusals to deal and tied selling, among others. These provisions are often referred to as the civil provisions of the Act.

Abuse of a dominant position occurs when a dominant firm or a dominant group of firms in a market engages in a practice of anti-competitive acts, with the result that competition is prevented or lessened substantially.

The Bureau encourages voluntary compliance with the Act. Voluntary compliance includes a wide spectrum of solutions to remedy anti–competitive behaviour, ranging from an informal resolution to the registration of a consent agreement with the Tribunal or contested proceedings.

In cases of non-compliance with the civil provisions of the Act, the Commissioner may file an application with the Tribunal for an order to remedy the situation. The Tribunal may order an AMP where it finds an abuse of a dominant.

Key Achievements

Canadian Real Estate Association

In February 2010, the Bureau filed an application with the Tribunal challenging anti-competitive rules imposed by the Canadian Real Estate Association (CREA) on real estate agents, who list residential properties using the Multiple Listing Service (MLS) system. Following negotiations, the Bureau announced in September 2010 that it had reached an agreement in principle that fully resolved its concerns. The agreement was registered with the Tribunal, ratified by CREA members, and took effect in October 2010.

As a result of the consent agreement, Canadians have the ability to choose which services they want from a real estate agent when selling their home, and to pay only for those selected services. At the same time, the agreement ensures that real estate agents have the flexibility to provide innovative service and pricing options to customers.

Visa and MasterCard

In December 2010, the Bureau announced that it filed an application with the Tribunal, to strike down restrictive and anti-competitive rules that Visa and MasterCard impose on merchants who accept their credit cards. These rules effectively eliminate competition between Visa and MasterCard for merchants' acceptance of their credit cards, resulting in increased costs to businesses and, ultimately, consumers. Merchants in Canada pay an estimated $5 billion annually in hidden credit card fees.

The anti-competitive restraints on merchants result in higher prices for all consumers, whether they pay by cash, cheque, debit or credit, because merchants pass along some or all of the high costs they are forced to pay as a result of Visa and MasterCard's anti-competitive rules.

The rules challenged by the Bureau prohibit merchants from encouraging consumers to consider lower cost payment options like cash or debit, and prohibit merchants from applying a surcharge to a purchase on a high cost card. Further, once a merchant agrees to accept one of Visa or MasterCard's credit cards, that merchant must accept all credit cards offered by that company, including cards that impose significant costs on merchants, such as premium cards.

Visa and MasterCard operate the two largest credit card networks in Canada. Together they processed more than 90 percent of all credit card transactions by Canadian consumers in 2009, representing over $240 billion in purchases.

The hearing of the application is set to begin in April 2012.

> **DID YOU KNOW?**
> Canadian merchants that accept Visa and MasterCard credit cards must pay a fee ranging between 1.5 and 3 percent or more of each purchase, nearly twice as much as their counterparts pay in Europe, New Zealand and Australia, but slightly less than in the United States.

3.2 Criminal Matters Branch

The Bureau's Criminal Matters Branch administers and enforces the criminal cartel and bid-rigging provisions of the Act. Combating international and domestic cartels and addressing domestic bid-rigging remained important enforcement priorities for the Bureau in 2010-2011.

On March 12, 2010, two amended provisions of the Act came into force, creating a dual track (criminal and civil) approach for agreements between competitors. The criminal prohibition, section 45, the cornerstone cartel provision of the Act, applies to agreements between actual or potential competitors to fix prices, allocate markets or reduce output in respect of the supply of products, and where the restraint on competition is not in furtherance of a legitimate joint venture or collaboration. The new section 45 made "hard-core" cartel agreements per se offences, while other forms of competitor collaborations, joint ventures and strategic alliances are subject to review under a civil provision, s. 90.1, that prohibits agreements only where they are likely to substantially lessen or prevent competition.

Bid-rigging, a criminal offence prohibited by section 47 of the Act consists of an agreement where, in response to a call for bids or tenders, bidders agree not to submit a bid, withdraw a bid, or agree to submit bids that have been pre-arranged among themselves. Penalties for bid-rigging include a fine in the discretion of the court and/or a prison sentence of up to 14 years.

The Bureau has a range of tools at its disposal to enforce these provisions. Under the Bureau's Immunity and Leniency programs, parties that disclose to the Bureau an offence not yet detected or provide evidence leading to the filing of charges may receive immunity or lenient treatment from the Director of Public Prosecutions, as long as the parties cooperate with the Bureau. These programs provide powerful incentives for corporations and individuals to come forward and cooperate with the Bureau's investigations.

Key Achievements

Retail Gasoline

In July 2010, criminal charges were laid against 25 individuals and three companies accused of fixing the price of gasoline at the pump in the cities of Victoriaville, Thetford Mines, Magog and Sherbrooke, Quebec.

These charges stem from an extensive Bureau investigation that culminated in a first wave of charges in June 2008. Investigators seized over 100,000 records, searched 88 locations, and intercepted thousands of telephone conversations over the course of the investigation. In total, 38 individuals and 14 companies were accused in this case. By the end of the 2010-2011 fiscal year, ten individuals and six companies had pleaded guilty, with fines totalling over $2.7 million. Of the ten individuals who pleaded guilty, six have been sentenced to terms of imprisonment totalling 54 months.

Ventilation

In December 2010, criminal charges were laid against eight companies and five individuals accused of rigging bids for private sector ventilation contracts for residential high-rise buildings in the Montreal area.

The Bureau uncovered evidence indicating that several companies specializing in ventilation, air conditioning and heating services secretly coordinated their bids in order to pre-determine the winners of the contracts, while blocking out honest competitors. The Bureau's investigation found evidence of criminal activity in five competitive bidding processes between 2003 and 2005, for contracts worth approximately $8 million.

Compressors

In October and November 2010, Embraco North America Inc. (Embraco) and Panasonic Corporation (Panasonic) were each fined $1.5 million by the Federal Court after pleading guilty to criminal charges that they fixed the price of hermetic refrigeration compressors sold to a refrigerator and freezer manufacturer in Canada.

The Bureau's investigation revealed that Panasonic and Embraco, together with other competitors, conspired to fix the price of hermetic refrigeration compressors sold in Canada, and elsewhere, from January 2005 to December 2005. Prior to negotiating their annual supply contract, Panasonic and Embraco exchanged information on their hermetic refrigeration compressor prices, production capacities and other market intelligence, and agreed to increase the price for hermetic refrigeration compressors. The compressors were sold to W.C. Wood Corporation, located in Guelph, Ontario, and used in the manufacture of various brand-name chest freezers.

Air Cargo

As part of an ongoing Bureau investigation, announced in October 2010, Cargolux Airlines International S.A. (Cargolux) pleaded guilty in Federal Court and was fined $2.5 million for its role in an air cargo cartel affecting Canada. Cargolux admitted that it engaged in a conspiracy to fix air cargo fuel surcharges for international air cargo transportation services from Canada, between April 2002 and February 2006.

To date, the fines in the Bureau's air cargo investigation total more than $17 million. In 2009, Société Air France, Koninklijke Luchtvaart Maatschappij N.V., (KLM), Martinair Holland N.V., Qantas Airways Limited, and British Airways PLC each pleaded guilty to fixing air cargo surcharges for shipments on certain routes from Canada. The Bureau's investigation into the alleged conduct of other air cargo carriers was ongoing at year end.

R. v. Dowdall et al.

In 2009, bid-rigging charges under section 47 of the Act were laid against seven companies and 14 individuals based on allegations that the parties entered into agreements to coordinate their bids in an illegal scheme to divide contracts for information technology services to various federal government departments. As of March 31, 2011, two individuals had pled guilty in this case.

In December 2010, a preliminary hearing into this matter began at the Ontario Superior Court in Ottawa.

Anti-Bid-Rigging Program

The Bureau has placed considerable emphasis on preventing and detecting bid-rigging in both the public and private sectors. The Bureau uses a number of different vehicles to raise awareness about the impact of bid-rigging on Canadians, and to educate procurement officials on how to detect this illegal activity. In 2010-2011, the Bureau conducted 33 outreach presentations for approximately 2,463 people, aimed at deterring bid-rigging activity, particularly in the Canadian public sector.

DID YOU KNOW?

In 2010-2011, there were 15 immunity applicants and 18 leniency applicants involving alleged cartel activities. The Bureau's Immunity and Leniency Programs provide transparency and predictability to ensure that the public understands the immunity and leniency processes. These programs are among the Bureau's most effective tools to combat cartels.

3.3 Fair Business Practices Branch

The Bureau's Fair Business Practices Branch administers and enforces the civil and criminal false or misleading representations and deceptive marketing practices provisions of the Act, as well as the three regulatory statutes promoting fair and truthful representations in the marketing of consumer products; namely, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Precious Metals Marking Act* and the *Textile Labelling Act*.

The Bureau promotes truth in advertising in the marketplace by discouraging deceptive business practices and encouraging the provision of information to allow consumers to make informed choices. In 2010-2011, the Bureau targeted an increasing number of misleading and fraudulent performance claims affecting Canadians, especially those which were delivered over the Internet.

Key Achievements

Rogers Communications Inc. and Chatr Wireless Inc.

In November 2010, following a two-month investigation, the Bureau began legal proceedings against Rogers Communications Inc. and Chatr Wireless Inc. before the Ontario Superior Court of Justice, under the misleading advertising provisions of the Act. Rogers' Canada-wide advertising campaign claimed that Chatr subscribers would experience "fewer dropped calls than new wireless carriers" and have "no worries about dropped calls". The Bureau's investigation, which involved a review of technical data, led the Bureau to conclude that there was no discernible difference in dropped call rates between Chatr and new entrants.

The Bureau has asked the court to order Rogers to:

- immediately stop the advertising campaign and refrain from engaging in similar campaigns;
- pay an AMP of $10 million;
- pay restitution to affected customers; and
- issue a corrective notice to inform the general public about the nature and provisions of the order issued against them.

Matthew Hovila and Strategic Ecomm Inc.

Matthew Hovila, of Edmonton, Alberta, Director of Strategic Ecomm Inc. and MSH Investments Inc., was arrested in January 2011, in relation to the operation of an alleged online job opportunities scam at www.oilcareer.com. The scam involved making representations with respect to finding employment in the oil and gas industry. Mr. Hovila was charged in October 2010 for the making of materially false or misleading representations, the contravention of a registered consent agreement, possession of property obtained through criminal activity, and laundering the proceeds of crime.

Mr. Hovila and his company, Strategic Ecomm Inc., had previously signed a consent agreement in 2006 regarding the same website and had paid a $100,000 AMP. This consent agreement was registered with the Tribunal in February 2006, giving it the same force and effect as a court order. The Bureau has been investigating the conduct noted above, as a breach of the 2006 consent order. This matter is part of its broader monitoring program regarding compliance with court orders, including registered consent agreements.

Brent Marsall and Dynasty Spas

In July 2010, the Bureau filed an application with the Tribunal against two Alberta spa retailers and their directors for making misleading representations that incorrectly conveyed the impression that hot tubs, spas or their insulation met the criteria of the *Energy Star* Program when they did not. The matter was consensually resolved by way of a consent agreement in January 2011, requiring the parties to cease making misleading representations, pay an AMP of $130,000, publish corrective notices, and develop and implement a corporate compliance program.

The result in this case was important in that it followed the issuance of an Enforcement Guideline on *Environmental Claims: A Guide for Industry and Advertisers* in 2008 and sent the strong message to businesses and consumers alike that the Bureau will not hesitate to take action to ensure that

Canadians have accurate and truthful information. Since announcing a crackdown on unsupported energy savings claims in June 2009, the Bureau has reached consent agreements with all Canadian hot tub and spa retailers identified as having made false or misleading *Energy Star* claims.

Deceptive Telemarketing Charges in Business Directory Scam

In March 2011, three charges were laid against five companies and five individuals for alleged offences under the deceptive telemarketing and false or misleading representations provisions of the Act relating to business directories deceptively marketed to small and medium-sized enterprises.

The Centre of Operations Linked to Telemarketing Fraud (COLT)[2], the Service de police de la Ville de Montréal, the United States Federal Trade Commission (FTC), and the United States Postal Inspection Service assisted the Bureau with this investigation.

Directors of Infotel Charged With Deceptive Telemarketing

In April 2010, criminal charges were laid against three individuals from Montreal, Quebec, and six companies involved in deceptive telemarketing activities related to business directory scams.

The charges stem from a Bureau investigation into criminal deceptive telemarketing by a group of corporations, collectively known as Infotel, led by Gordon Frank, Theodore Frank, and Sean Frank. The accused operated telemarketing offices in Toronto, Ontario, St. John's, Newfoundland, and Montreal, Quebec. These activities are estimated to have generated approximately $60 million in revenue between 1999 and 2004. The Bureau's investigation revealed that the Frank brothers' companies contacted businesses and not-for-profit organizations misrepresenting themselves as the victims' regular supplier of business directories. The Bureau also determined that Infotel telemarketers failed to disclose material information when contacting businesses, including the true purpose of the call.

Consumer Rebate Promotions

Following the release of its Enforcement Guidelines on Consumer Rebate Promotions in September 2009, the Bureau has continued its efforts to ensure that material conditions, limitations and exclusions as they relate to rebates and other types of promotions are clearly and conspicuously disclosed to consumers before they make their purchasing decision. To this end, the Bureau announced in 2010 that, following Bureau investigations, Mexx Canada and its parent company Liz Claiborne Canada Inc.; Smart Set, a division of Reitmans (Canada) Limited; Zellers Inc.; and Whirlpool Canada LP, agreed to correct their promotions to ensure that consumers would be able to redeem various rebates or "savings cards/passes" despite limiting redemption terms and conditions that may not have been adequately disclosed.

DID YOU KNOW?

Canadians spend a tremendous amount of time online, and half of the population is active on social networks. Marketing and advertising are constant features of online experiences. In September 2010 the Bureau and other members of the International Consumer Protection and Enforcement Network (ICPEN), participated in a joint Internet sweep to expose fraudulent and deceptive advertising on social networking sites. The Bureau regularly participates in these annual sweeps, which are the result of consumer protection agencies worldwide working together to combat cyberscams and to increase consumer confidence in e-commerce.

3.4 Mergers Branch

Mergers in Canada are subject to review by the Bureau under the Act to ensure that they will not result in a substantial lessening or prevention of competition. When the Bureau finds that a proposed merger is likely to substantially lessen competition or prevent competition, the Commissioner may require remedies to resolve particular competition issues. When concerns cannot be addressed by negotiation, the Commissioner may bring an application to the Tribunal to alter or block the proposed transaction. Where mergers involve more than

[2] The COLT partnership includes the Royal Canadian Mounted Police, Sûreté du Québec, Canada Border Services Agency, United States Federal Trade Commission, Federal Bureau of Investigation, United States Department of Homeland Security, and the United States Postal Inspection Service.

one jurisdiction, Bureau staff work with other competition authorities to coordinate the timing of the review process and the review itself, to the extent possible, and, when appropriate, seek non-conflicting (and to the extent appropriate, consistent) remedies.

Key Achievements

CCS Corporation and Complete Environmental Inc.

In January 2011, the Bureau applied to the Tribunal for an order to dissolve CCS Corporation's (CCS) acquisition of Complete Environmental Inc. (COMPLETE), owner of the proposed Babkirk Secure Landfill in Northeastern British Columbia. This is the first merger challenge filed by the Bureau since 2005. Prior to the completion of the transaction in January 2011, CCS and the Bureau entered into a preservation agreement, whereby CCS agreed to preserve and maintain the business of COMPLETE, including all permits and certificates necessary for the establishment and operation of the Babkirk Secure Landfill, until the resolution of the Bureau's application to the Tribunal.

Following a thorough review, the Bureau concluded that CCS's acquisition of the proposed Babkirk Secure Landfill would likely result in a substantial prevention of competition for the disposal of hazardous waste produced at oil and gas facilities in Northeastern British Columbia. COMPLETE had obtained regulatory approval to convert Babkirk into a secure landfill in February 2010. CCS operated the only two operational secure landfills in British Columbia. Had the Babkirk Secure Landfill opened, it would have been CCS's competitor.

IESI-BFC Ltd. and Waste Services, Inc.

In November 2009, IESI-BFC Ltd. (BFI) and Waste Services, Inc. (WSI) announced their intention to merge. After an extensive review of the proposed transaction, the Bureau concluded that the transaction would likely result in a substantial lessening or prevention of competition in the supply of commercial waste collection services in a number of markets in Canada.

Under the terms of a consent agreement filed with the Tribunal in June 2010, BFI and WSI were required to divest commercial waste collection assets, including customer contracts, vehicles, bins and other equipment in each of Calgary and Edmonton, Alberta, as well as Hamilton, Ottawa and Simcoe County, Ontario. BFI and WSI were also required to divest WSI's commercial waste transfer station, located in Hamilton, Ontario.

Novartis AG and Alcon, Inc.

In January 2010, Novartis AG (Novartis) announced its intention to acquire control of Alcon, Inc. (Alcon) by acquiring the remaining shares of Alcon owned by Nestlé S.A. Following an extensive review, which involved cooperating closely with the FTC and the European Competition Directorate, the Bureau concluded that the proposed transaction would likely result in a substantial lessening of competition in Canada for the supply of certain ophthalmic products. In August 2010, the Bureau and Novartis entered into a consent agreement, whereby Novartis agreed to sell certain assets and associated licences related to the sale in Canada of certain ophthalmic products to a third party purchaser.

The Coca-Cola Company and Coca-Cola Enterprises Inc.

In February 2010, The Coca-Cola Company (TCCC) entered into an agreement to acquire Coca-Cola Enterprises Inc. (CCE). TCCC markets soft drinks worldwide. In North America, its bottling and distribution operations were conducted by CCE, who operated independently of TCCC, and who also bottles soft drinks on behalf of certain third parties who are competitors of TCCC. The Bureau concluded that the transaction would have substantially lessened competition by allowing TCCC to access commercially and competitively sensitive information of third parties who obtain bottling services from CCE.

In September 2010, the Commissioner, TCCC and CCE entered into a consent agreement that prevented the merged entity from accessing third party commercially and competitively sensitive information outside of the contract-bottling context. Throughout the course of the review, the Bureau worked closely with the FTC.

Teva Pharmaceutical Industries Ltd. and Merckle/Ratiopharm Group

In March 2010, it was announced that Teva Pharmaceutical Industries Ltd. (Teva) was to acquire control of all the operational entities of the Merckle/Ratiopharm Group, including Ratiopharm Canada Inc. (Ratiopharm).

Following an extensive review, the Bureau concluded that the transaction, as proposed, would likely lead to a substantial lessening of competition in the supply of two generic pharmaceutical products used for pain relief. In July 2010, the Bureau and the parties to the proposed transaction entered into a consent agreement requiring the divestiture of assets and associated licences of either Teva or Ratiopharm relating to the sale and supply of certain dosage forms of the two products in Canada. In November 2010, Teva completed the divestiture to Sandoz Canada Inc., as approved by the Bureau, pursuant to the terms of the consent agreement.

The Bureau cooperated closely with the European Commission's Directorate General for Competition over the course of its review.

Nufarm Limited and A.H. Marks Holding Limited

In November 2008, Nufarm Limited's (Nufarm) acquisition of A.H. Marks Holding Limited (A.H. Marks) was brought to the attention of the Bureau. Following a detailed review, the Bureau concluded that the transaction would likely lead to a substantial lessening or prevention of competition in the supply of 2-methyl-4-chlorophenoxyacetic acid (MCPA) in Canada. MCPA is an active ingredient found in many broadleaf herbicides designed for use in cereal and grasslands.

In July 2010, the Bureau reached an agreement with Nufarm to resolve competition concerns. The Bureau determined that commitments made by Nufarm to the Bureau and a consent decree between Nufarm and the FTC adequately resolved competition concerns in Canada. The settlement required Nufarm to sell A.H. Marks' MCPA and dimethylamine salt rights and assets to a new competitor. In addition, Nufarm was to modify agreements with The Dow Chemical Company and Aceto Corporation related to MCPA and certain other products. The Bureau worked closely with the FTC throughout the investigation to reach a settlement order that restored competition in both the Canadian and United States markets for MCPA.

> **DID YOU KNOW?**
> Remedies in the Waste, Novartis, CCS and Teva cases alone will result in estimated annual savings of $31 million for Canadians.

3.5 Compliance and Operations

The Compliance and Operations Branch contributes to the Bureau's success by ensuring the branches have the tools they need to conduct their work and that they work within approved policies and procedures. The Branch has three divisions.

Key Achievements

Capacity Building

This division is responsible for the long-term development of the Bureau's staff, including the development and implementation of initiatives for training, recruitment and retention, as well as facilitating information management within the organization.

The Bureau has a well-established triennial rotation program that provides staff with the opportunity to move within the organization, renew their skills and take on new challenges. The program balances the employee's need for career development and job satisfaction, the branches' need for a certain mix of skills and capabilities, and the Bureau's need for a versatile, flexible, well-rounded and stable work force. In 2010, 29 employees participated in the program.

In order to maintain a competent, educated and highly skilled workforce, the Bureau conducted its annual university recruitment campaign in September and October of 2010.

In March 2011, the Champion of Employment Equity and Diversity for the Bureau created the Bureau Employment Equity and Diversity Working Group. This group is composed of 18 Bureau employees that promote awareness of employment equity and

diversity issues through discussion and sharing of ideas.

Management Services

The Bureau's work is important to businesses, consumers and the economy as a whole, but to have the greatest impact for Canadians, the Bureau must ensure that it has sufficient resources, and that these resources are focussed on areas that will have the greatest impact for Canadians. During 2010-2011, the Bureau participated in the government-wide Strategic Review exercise. This provided an opportunity to consider the rationalization of its programs and services, including internal services. During this period of financial restraint, savings were made in the areas of corporate supplies, telecommunications and publications. IT processes were reviewed with a goal of reducing costs and increasing productivity. The Bureau also upgraded its operating system to provide an enhanced level of IT security.

Enforcement Services

The Bureau's Electronic Evidence Unit (EEU) continued to establish and deepen expertise and develop policy concerning electronic evidence (e-evidence) gathering by the Bureau. The EEU continued to apply an intelligence-led approach to seizing and analysing e-evidence. Appropriate training recommendations were provided to Bureau case teams to increase the efficiency of Bureau investigations. In March 2011, the Bureau launched a pilot project to improve its effectiveness in analysing and processing the large volumes of e-evidence gathered during a criminal investigation, using e-discovery and visual investigative analysis software. An evaluation of possible broader implementation is underway and will be completed within the next fiscal year.

The Information Centre is essential to the Bureau's public awareness and enforcement activities, as the public's primary access point for information requests and complaints related to the four statutes administered by the Bureau. Information officers provide information to clients, primarily over the telephone, and register complaints on a wide range of topics.

In 2010-2011, the Bureau's Information Centre registered 17,994 requests via telephone, fax, mail and Internet, a slight increase from 17,827 requests in 2009-10.

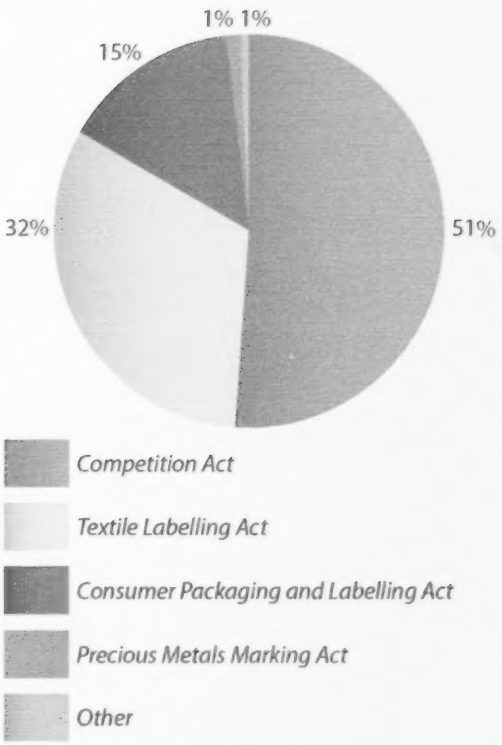
Requests made to the Competition Bureau	
Total Bureau Requests	17,994
Complaints	5,272
Information requests	6,710
No-Issue[3]	6,012

The tables and illustration below summarize the main types of complaints and information requests received by the Bureau's Information Centre in 2010-2011.

Top 5 Complaints by Product or Service	
1. Directory listings	748
2. Contests, Sweepstakes & Lotteries	365
3. Electronics & digital products	323
4. Home and office paper, supplies and services	297
5. Household and personal contractor services	231

Information Requests	
Competition Act	3,436
Textile and Labelling Act	2,170
Consumer Packaging and Labelling Act	978
Precious Metals Marking Act	77
Other	49

[3] No-Issue includes requests that are not relevant to the Bureau's mandate or were referred to the Bureau in error.



3.6 Economic Policy and Enforcement Branch

The Economic Policy and Enforcement Branch provides economic advice and support to the Bureau's enforcement cases. In 2010-2011, economists in this Branch contributed to numerous matters such as, Novartis-Alcon, Teva-Ratiopharm, Rogers Chatr, Air Cargo, and CCS Corporation/Complete Environmental Inc.

The Branch taught several economics courses to Bureau staff including, introducing fundamental principles and concepts of economics that are applicable to the Bureau's enforcement work, and more advanced concepts and economic theory.

The Branch continued to provide its annual visiting speaker program, where competition policy experts and economic scholars make presentations to Bureau staff concerning their latest research. This program is designed to create and maintain links between the Bureau and experts in the field, as well as to educate Bureau staff on recent developments in economics and competition policy. The Branch arranged visits for 12 speakers in 2010-2011.

3.7 Legislative and International Affairs Branch

The Legislative and International Affairs Branch manages the Bureau's participation in a wide range of activities to promote the benefits of a competitive marketplace, both domestically and internationally. The branch develops and supports government legislative and regulatory initiatives, provides policy support for the Bureau's enforcement activities, and prepares Bureau officials to appear before federal and provincial government agencies and regulatory bodies. Internationally, the branch supports the Government in the negotiation and implementation of competition provisions in free trade agreements, and develops and implements bilateral cooperation agreements with foreign antitrust agencies. The branch also manages the Bureau's leading role in the International Competition Network, the International Consumer Protection and Enforcement Network, and the Organisation for Economic Co-operation and Development.

Key Achievements

Passage of Anti-spam Legislation (Bill C-28)

On December 15, 2010, Parliament passed new comprehensive anti-spam legislation that included amendments to the Act. The intent of the legislation is to deter the most damaging and deceptive forms of spam that impact Canadians and Canadian businesses. Bill C-28 was led by Industry Canada, with involvement from the Bureau and other federal agencies, including the Office of the Privacy Commissioner and the Canadian Radio-television and Telecommunications Commission. This legislation has not yet come into force.

The amendments to the Act include:

- new civil and criminal provisions to address specific online deceptive practices, including false or misleading representations in headers (e.g., in subject lines or sender names in emails), in the content of a communication or in locators, such as web addresses and URLs;
- a new civil injunctive power to prevent a person from supplying a product (e.g. Internet service) to another person;

- changes to existing criminal and civil injunctions applicable to deceptive marketing practices to help streamline the Bureau's ability to use these tools;
- technology-neutral amendments that make certain definitions and existing provisions apply more broadly to include emerging technologies; and
- investigative assistance provisions that will allow the Bureau to collect evidence on behalf of foreign counterparts.

Submission to the Review of the Revised Foreign Investment Policy in Book Publishing and Distribution

In September 2010, the Bureau made a submission to Canadian Heritage's Review of the *Revised Foreign Investment Policy in Book Publishing and Distribution*. The Bureau's submission provided a competition perspective on the issue of foreign investment and ownership restrictions, and highlighted the importance of competition principles in examining investment restrictions in Canadian markets. The Bureau recommended that, to the extent possible, and given the Government of Canada's cultural policy objectives, foreign investment and ownership restrictions in the book industry, and particularly in the book retail sector, should be relaxed or removed to provide a broader array of capital options in the market, to improve the conditions for entry of new competitors, and to apply pressure on incumbents to invest and innovate for the benefit of Canadian businesses and consumers.

Representations to Parliamentary Committees

Industry Canada and Bureau officials appeared before Parliamentary Committees on four occasions between April 1, 2010, and March 31, 2011.

On July 20, 2010, Bureau officials appeared before the House of Commons Committee on Industry, Science and Technology to provide evidence on its study on the impending closure of the Shell Oil Refinery in Montreal, Quebec. The Bureau confirmed that the issue fell outside its mandate, although a review could be triggered in the event of a sale under the merger provisions of the Act, but not in the case of a closure.

On December 9, 2010, Bureau officials appeared before this Committee to provide evidence on its study of Bill C-452, An Act to *Amend the Competition Act* (inquiry into industry sector). Bureau officials noted that with the passage of Bill C-10 in 2009, the anti-cartel provision of the Act was amended to create a more effective criminal enforcement regime for those engaging to fix prices, allocate markets or restrict output. It was further noted that these changes came into force following the introduction of Bill C-452. Finally, it was confirmed that the Commissioner has the authority to commence an inquiry without receiving a complaint and, of the formal inquiries being conducted by the Bureau at the time, approximately 30 percent had been initiated without a complaint.

On December 7, 2010, Bureau officials appeared before the Senate Committee on Transport and Communications during its study of *Emerging Issues in the Airline Industry*. Bureau officials provided evidence on the merger review process, issues relating to unfair pricing, collusion, and the Air Cargo investigation.

On February 9, 2011, Bureau officials appeared before the Senate Banking, Trade and Commerce Committee to provide evidence during its review of Bill S-201, *An Act to Amend the Office of the Superintendent of Financial Institutions Act* (credit and debit cards). Bill S-201 would expand the mandate of the Superintendent of Financial Institutions to monitor and make recommendations relating to the use of debit and credit cards in Canada. The Bureau outlined its mandate and discussed its recent announcement challenging Visa and MasterCard's anti-competitive rules.

There were no requests made of the Bureau for follow up information as a result of these appearances before Parliamentary Committees in 2010-2011.

Key International Achievements

The Bureau actively participates in a number of international organizations to foster greater cooperation among competition authorities around the world. These activities are critical to law enforcement, as coordination among agencies leads to improved enforcement outcomes. In 2010-2011,

the Bureau participated in the following international organizations:

International Competition Network

The International Competition Network (ICN) advocates the adoption of superior standards and procedures in competition policy around the world, formulates proposals for procedural and substantive convergence, and seeks to facilitate effective international cooperation for the benefit of member agencies, consumers and economies worldwide. Since the creation of the ICN in 2001, the Bureau has played a key role in the organization's development by serving as the ICN Secretariat and through participation in the Steering Group and working groups on agency effectiveness, mergers, cartels and unilateral conduct. In addition, the Bureau co-chairs the Cartel Working Group's subgroup on Enforcement Techniques and the Operational Framework Working Group. During the fiscal year, the Bureau continued to play a pivotal role in the organizational aspects of the ICN through its role as Secretariat and active involvement in the ICN's Second Decade Project. The Bureau also participated in the 9th Annual Conference held in Istanbul, Turkey in April 2010, at which the Commissioner participated as a panellist in the Advocacy Working Group plenary session on market studies, and other Bureau officials participated in breakout sessions on proactive cartel detection and planning for the ICN's second decade.

Operational Framework Working Group

The Bureau co-chairs the Operational Framework Working Group. In 2010-11, the Working Group made a number of amendments to the ICN's Operational Framework that integrated feedback received from the ICN membership as part of the Second Decade initiative. These amendments promote diversity, inclusiveness and transparency within the ICN's governance framework, while maintaining continuity with existing practices.

Cartel Working Group

The Bureau continues to co-chair the Cartel Working Group's subgroup on Enforcement Techniques. This subgroup aims to improve the effectiveness of anti-cartel enforcement by identifying and sharing specific investigative techniques and advancing education and information-sharing through its annual Cartel Workshop.

Merger Working Group

The Bureau participated in a Merger Working Group questionnaire that provided a comprehensive assessment of its existing work products and membership needs. The Bureau actively participated in the November 2010 workshop that examined investigative techniques, merger notification and procedures issues and substantive issues in merger analysis.

Unilateral Conduct Working Group

The Bureau actively participated in drafting a chapter of the Unilateral Conduct Working Group's workbook titled *Assessing Dominance/ Substantial Market Power*.

Organisation for Economic Co-operation and Development - Competition Committee

The Organisation for Economic Co-operation and Development's (OECD) Competition Committee (CC) is comprised of representatives of antitrust enforcement and policy agencies of OECD Member countries. The CC reviews domestic and international developments in competition laws and policies, promotes co-operation between Member countries, exchanges views on competition law and policy issues arising in other international fora, and makes recommendations to the OECD Council on matters within the competence of the CC. During this fiscal year, the Commissioner remained an active member of the Bureau, the CC's managing body. In 2010-2011, the Bureau contributed to the work of the CC and its Working Parties by providing input and submissions on the following topics: public procurement and bid-rigging issues, procedural fairness issues in civil and administrative enforcement proceedings, information exchanges between competitors, regulated conduct defence, economic evidence in merger analysis, and creeping acquisitions.

International Consumer Protection and Enforcement Network

The International Consumer Protection and Enforcement Network (ICPEN) is comprised of consumer protection authorities from almost

40 countries, whose aim is to protect consumers' economic interests around the world, share information about cross-border commercial activities that may affect consumer welfare, and encourage global cooperation among law enforcement agencies. In 2010-2011, the Bureau continued to play a leadership role in ICPEN. The Bureau served as the Secretariat and was a member of the Advisory Group and a number of ICPEN working groups. The Bureau actively participated in the bi-annual ICPEN meeting and Best Practices Workshop in Washington, D.C., in May 2010. The Commissioner and other Bureau officials participated in various sessions on topics such as cooperation with consumer associations and the business sector, electronic commerce, and health scams.

The second ICPEN Conference and Best Practices Workshop took place in November 2010, in Noordwijk, The Netherlands. Representatives of the Bureau participated in presentations and sessions relating to the following topics: the effective use of ICPEN's collective intelligence, intelligence hotspots, intelligence and cross-border experiences, green claims, and succession planning.

Organisation for Economic Co-operation and Development - Committee on Consumer Policy

The OECD Committee on Consumer Policy (CCP) examines questions relating to domestic and international consumer law and policy, including issues of consumer safety and the development of a global marketplace for consumers, and contributes to the further development and strengthening of cooperation between Member countries in policy development and law enforcement. In 2010-2011, the Bureau participated in the CCP by providing input and presentations regarding several projects of the CCP, including presentations on Canada's *Environmental Claims: A Guide for Industry and Advertisers* Enforcement Guidelines and the Bureau's Enforcement Guidelines for *"Product of Canada" and "Made in Canada" Claims.*

International Cooperation

The Bureau develops and implements bilateral cooperation agreements with foreign antitrust agencies in order to, among other things, facilitate information exchanges on competition law enforcement and the coordination of global enforcement activity. In 2010-2011, the Bureau cooperated with the following jurisdictions with respect to international enforcement cases: Australia, Brazil, Chile, the European Union, France, Switzerland, Japan, Mexico, New Zealand, South Africa, the United Kingdom and the United States.

The Bureau provides technical assistance to foreign jurisdictions to support the development of fair and efficient competition laws, practices and cooperation. In 2010-2011, the Bureau engaged in technical assistance and capacity-building exercises with China, Mexico, Tanzania, and the United Kingdom, and engaged in staff exchanges with Korea and the FTC.

Free Trade Agreements

The Bureau, in partnership with Industry Canada and Canada's Department of Foreign Affairs and International Trade, develops competition policy provisions in bilateral and regional free trade agreements, and Foreign Investment Promotion and Protection Agreements, and acts as the lead negotiator on competition enforcement matters on behalf of the Government of Canada.

During this fiscal year, the Bureau was engaged in negotiations with: Costa Rica, Honduras, the European Union, Morocco, Ukraine, the Caribbean Community (CARICOM), India, South Korea, Japan, and Thailand.

3.8 Public Affairs Branch

Communicating the Bureau's mandate to Canadians is an important part of the work of the Public Affairs Branch. The Bureau uses a number of different vehicles to draw attention to both its enforcement efforts and non-enforcement activities in an effort to educate consumers and deter further anti-competitive activity. The following describes the various ways the Bureau communicated the results of its work over the past year.

Announcements

The Bureau issued 60 announcements during the 2010 – 2011 fiscal year describing the benefits of its activities to the economy and to Canadians. Announcements include news releases, information

notices, and items in the Bureau's electronic CB in Brief news digest.

In an effort to further enhance its communication and transparency with stakeholders, the Bureau released two Position Statements that briefly described the Bureau's analysis of certain mergers and summarizes its main findings in order to provide transparency to the antitrust community and industry stakeholders.

Media Relations

The Bureau responded to enquiries from journalists in Canada and abroad, resulting in approximately 4,400 print, radio, television and online media reports on matters involving the Bureau. The Bureau's media analysis concluded that 97 percent of coverage was positive to neutral in tone.

High profile media issues in 2010-2011

1. The Canadian Real Estate Association (CREA) and Multiple Listing Service (MLS) case
2. Visa and MasterCard
3. Rogers Chatr
4. Gas Prices and Gas Price-Fixing in Quebec markets
5. BHP and Potash Corporation

Bureau Web site

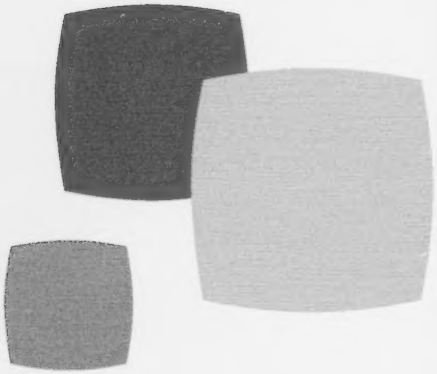
The Bureau's Web site (www.competitionbureau.gc.ca) provides a wealth of useful information to a wide and varied audience, ranging from consumers and businesses to legal and media professionals. The site received a total of 689,922 visits during 2010-2011.

The site also features an automatic email distribution list that sends information updates to subscribers, as well as a Real Simple Syndication (RSS) news feed that provides subscribers with access to Bureau announcements as they become available.

Top five Bureau announcements for 2010-2011 based on visits to the Bureau Web Site

Announcements	Visits
1. Competition Bureau Reaches Agreement in Principle in Real Estate Case http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03293.html	4,066
2. Competition Bureau Challenges Visa and MasterCard's Anti-competitive Rules http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03325.html	3,971
3. Competition Bureau Confirms Enforcement Approach to new Guidelines on "Made in Canada" and "Product of Canada" Claims http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03230.html	3,959
4. Directors of Infotel Charged With Deceptive Telemarketing http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03222.html	3,335
5. Competition Bureau Takes Action Against Rogers Over Misleading Advertising http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03316.html	3,218

4. PUBLICATIONS AND CONSULTATIONS



4. PUBLICATIONS AND CONSULTATIONS

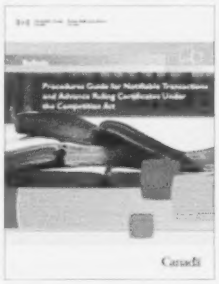
The Bureau issues Enforcement Guidelines to provide guidance on its enforcement approach in various competition areas.

Enforcement Guidelines are an articulation of the Bureau's enforcement policy with respect to the various provisions of the *Competition Act*, *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act*, and the *Precious Metals Marking Act* based on the Bureau's past experience, jurisprudence, and accepted economic theory.

The Bureau continued to focus on the effective implementation of the amendments to the Act in 2010-2011, with a view to enhancing transparency in discharging its mandate. In an effort to provide businesses with clear guidelines and a predictable process the Bureau released various guidance documents and undertook public consultations.

In 2009, amendments to the merger provisions of the Act were introduced to improve the predictability, effectiveness and efficiency of the merger review process. These amendments created a two-stage process for reviewing mergers in Canada, resulting in changes to the statutory waiting periods for parties required to notify the Commissioner of a proposed transaction. In October 2010, following public consultations, the Bureau released an updated *Fees and Service Standards Policy for Mergers and Merger-Related Matters* (Merger Policy), *Fees and Service Standards Handbook for Mergers and Merger-Related Matters* (Merger Handbook) and *Procedures Guide for Notifiable Transactions and Advance Ruling Certificates under the* Competition Act (Procedures Guide). The policies and procedures set out in these guidance documents came into effect November 1, 2010.

Procedures Guide for Notifiable Transactions and Advance Ruling Certificates under the *Competition Act*, Merger Policy and Merger Handbook



In November 2010, the Bureau published its updated Procedures Guide. It provides an overview of the relevant provisions of Part IX of the Act and the *Notifiable Transactions Regulations*, an explanation of the general approach taken by the Bureau to pre-merger notification matters, information regarding requests for, and issuance of, advance ruling certificates under the Act, and general guidance in determining how the Act may apply to a proposed transaction. It also sets out the current policies and procedures relating to the submission of notifications and requests for advance ruling certificates, whether in paper form or electronically.

The Merger Policy sets forth a number of policies related to merger review, including the fees charged for merger notifications. It contains revised service standards that are consistent with the amended statutory waiting periods. A new addition to the Merger Policy is that no additional filing fee will be required for a subsequent filing where a notification is pulled and re-filed, provided certain conditions are satisfied.

The Merger Handbook and the Procedures Guide incorporate changes required owing to recent amendments to the Act, the *Notifiable Transactions*

Regulations, and the Merger Policy, as well as feedback solicited during consultations regarding fees and service standards held earlier in the year. The Merger Handbook implements service standards that reflect greater consistency with statutory waiting periods and also reduces the information that merging parties are required to provide to commence the Bureau's merger review service standard.

Merger Enforcement Guidelines

In September 2010, the Bureau announced that it would hold a series of roundtables to explore the merits of revising the *Merger Enforcement Guidelines* (MEGs). The purpose of the roundtables was to assess whether the MEGs accurately reflected current merger review practices at the Bureau, the potential impact of the recent publication of the revised *Horizontal Merger Guidelines* by the antitrust authorities in the United States, as well as other legal and economic developments. In February 2011, the Commissioner announced that the Bureau would undertake moderate revisions to the MEGs. This decision followed the roundtable consultations conducted across Canada, as well as consultations with foreign agencies, internal consultations, and a focused internal review. The Bureau intends to publish the revised draft MEGs during the second quarter of 2011, and to seek public feedback on the revisions prior to publishing the final revised MEGs in the Fall.

Merger Review Performance Report

In May 2010, the Merger Review Performance Report was published. The report provided an update on the performance of the Bureau's Mergers Branch since the last report was published in June 2007. The performance report provided information on workload and resources, merger review expenditures, filing complexity and service standards, and written feedback from stakeholders received during the review period. This report was discussed during the Merger Fee Forum and Stakeholder Consultation in May 2010.

Fee and Service Standards Handbook for Written Opinions

In November 2010, the Bureau announced that it would update its *Fee and Service Standards Handbook for Written Opinions*, to, among other things, reflect amendments to the Act that came into force in 2009 and 2010. The revised Handbook will provide updated guidance on the factors the Commissioner will generally take into consideration when deciding whether to provide a written opinion in non-merger matters, how the Bureau will determine the complexity of a proposed practice or conduct subject to a written opinion, the information required by the Bureau to commence the applicable service standard, and when service standards may be paused or terminated.

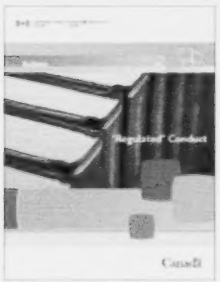
Leniency Program Bulletin and Frequently Asked Questions

In September 2010, the Bureau published its Leniency Program Bulletin and a comprehensive set of frequently asked questions. The Bulletin outlines the factors that the Bureau considers when making sentencing recommendations to the Public Prosecution Service of Canada (PPSC) and the process for seeking a recommendation for a lenient sentence in a criminal cartel case. A transparent and predictable Leniency Program complements the Bureau's Immunity Program. The Bureau recommends immunity from prosecution for the first person to approach the Bureau who admits involvement in an offence and meets the Program criteria. A recommendation for lenient treatment may be available to a company or individual who cooperates with the Bureau's investigation and admits involvement, but is not the first to approach the Bureau.

Memorandum of Understanding between the Commissioner of Competition and the Director of Public Prosecutions

In May 2010, the Commissioner and the Director of Public Prosecutions entered into a Memorandum of Understanding (MOU) with respect to the investigation and prosecution of offences under the Act, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act*, and the *Precious Metals Marking Act*. The MOU sets out the guiding principles of the relationship between the Bureau and the PPSC, and clearly outlines the organizations' respective roles and responsibilities at the investigative and prosecution stages of a case. It is expected that the MOU will provide increased transparency and predictability in Bureau investigations by providing the public with a clear understanding of the interaction between Bureau investigators and PPSC counsel.

"Regulated" Conduct Bulletin



In September 2010, the Bureau released an updated Bulletin on "Regulated" Conduct that incorporated changes brought about by the recent amendments to the Act.

The Bulletin on "Regulated" Conduct outlines the Bureau's approach to the enforcement of the Act in situations where conduct is addressed by other laws enacted by various levels of government. The updated Bulletin replaces the Bureau's 2006 Bulletin, and reflects current Bureau priorities.

Corporate Compliance Program Bulletin

In September 2010, the Bureau released an updated Bulletin on Corporate Compliance Programs to reflect amendments to the Act and to incorporate information from new Bureau publications. This Bulletin describes the Bureau's approach to programs designed to ensure compliance with the Act, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act* and the *Precious Metals Marking Act*. The Bulletin identifies measures that businesses should consider in order to prevent or minimize their risk of contravening the statutes, and to detect contraventions, should they occur. The Bulletin also provides tools to help Canadian businesses develop their own compliance program.

The Bureau first published a Bulletin on Corporate Compliance Programs in 1997. The Bureau held a public consultation in the summer of 2006, to identify areas where the document could be improved and to ensure the Bureau's compliance tools were practical and relevant to the Canadian business community. A revised draft bulletin was issued in April 2008, at which time the Bureau invited interested parties to provide their comments on the draft bulletin. The 2010 version of the Bulletin on Corporate Compliance Programs reflects the results of those consultations.

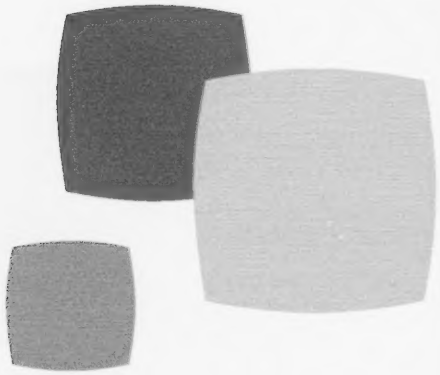
"Product of Canada" and "Made in Canada" Claims – Enforcement Guidelines

In December 2009, the Bureau released its revised Enforcement Guidelines for *"Product of Canada" and "Made in Canada" Claims* (Guidelines). The Guidelines describe the Bureau's approach to assessing "Product of Canada" and "Made in Canada" claims for non-food products under the false or misleading representations provisions of the Act, the *Consumer Packaging and Labelling Act* (except as it relates to food), and the *Textile Labelling Act*. The Guidelines took effect on July 1, 2010.

The Guidelines provide further clarity to "country of origin representations". As part of their purchasing decision, Canadians often seek out information on the origin of the product, motivated by consideration that can include the desire to support domestic production.

http://

5. OUTREACH INITIATIVES



5. OUTREACH INITIATIVES

Fraud Prevention Month

Since 2004, the Fraud Prevention Forum (Forum), chaired by the Bureau, has organized Fraud Prevention Month in Canada. Activities and events conducted by Forum members during the month of March aim to raise awareness and educate consumers and businesses about the dangers of fraud in the Canadian marketplace. The Forum has 138 members, including public sector and law enforcement agencies, provincial and federal governmental departments, and business and consumer groups.

In March 2011, the Bureau issued a news release to launch Fraud Prevention Month, followed by a consumer advisory on fraudulent advertising on social networking sites. Given the increased prevalence and evolution of online scams in recent years, the theme for the 2011 Fraud Prevention Month campaign was Internet Fraud. The Bureau also participated in a standalone supplement on fraud prepared by the *Globe and Mail* that was published on March 2011. The Minister of Industry contributed an opinion piece for the supplement, and other Forum partners provided content and advertising.

The Forum organized a fraud awareness conference, entitled "Preventing Fraud in a Digital Age", which was held in Ottawa in March 2011. The conference attracted 194 participants, including 34 local, national and international speakers, alongside three Bureau representatives. Over the course of the conference, the Bureau gave three French radio interviews and four television interviews (two in French and two in English).

Total media coverage of Fraud Prevention Month, including reports that did not specifically mention the Bureau, accounted for 176 hits with an estimated reach of 2.4 million Canadians. Articles or references of the Bureau/Fraud Prevention Month appeared in a total of 10 print outlets. Total broadcast hits for radio (no TV coverage) and online added up to 20 hits. A total of 58 stations used the radio segments, 10 of which were from Quebec. The Fraud Prevention section on the Bureau's website received 3,540 hits in March 2011, generating more visits than any other section.

FRAUD: Recognize It. Report It. Stop It.

International Day of Action Against Mass Marketing Fraud

On June 1, 2010, the Commissioner urged that Canadian authorities and consumers take action to better protect themselves against the growing threat of mass marketing fraud. According to recent statistics from the Canadian Anti-Fraud Centre (CAFC), reported domestic mass marketing fraud has increased by 44.6% over the past two years and total Canadian mass marketing fraud complaints against international and Canadian fraudsters amounted to more than $27 million last year. Reported domestic mass marketing fraud crimes, which include acts committed on the Internet, broadcast media, telephone, and in person, cost Canadians $10.3 million in the last calendar year. That number compares to $7.1 million in 2007 and $9.9 million in 2008.

The Bureau is part of the International Mass Marketing Fraud Working Group (IMMFWG), which includes representatives from various international enforcement agencies who use cross-border intelligence sharing and strategy development to combat fraud. June 1, 2010, was chosen by the

IMMFWG as the date when participating countries would make a coordinated effort to draw attention to the serious problem of mass marketing fraud.

Meetings with Consumer Groups

In May and October of 2010, the Commissioner hosted two sessions with consumer groups from across Canada. These meetings provided the Bureau with the opportunity to listen to consumer concerns, perspectives and to outline the work and mandate of the Bureau and how it benefits consumers. The Commissioner met with representatives from various groups, including the Consumer Interest Alliance, the Consumers Council of Canada, the Office of Consumer Affairs, Option consommateurs, the Public Interest Advocacy Centre, l'Union des consommateurs, the Retail Council of Canada and the Consumer's Association of Canada. Issues covered during the sessions included: "Product of Canada" and "Made in Canada" Claims, Bill C-28 Canada's Anti-spam legislation, recent Fair Business Practices Branch initiatives and activities, the Bureau's involvement in the International Consumer Protection and Enforcement Network, the Fraud Prevention Forum and Fraud Prevention Month.

HOW TO CONTACT THE COMPETITION BUREAU

Anyone wishing to obtain additional information about the *Competition Act*, the *Consumer Packaging and Labelling Act* (except as it relates to food), the *Textile Labelling Act*, the *Precious Metals Marking Act*, or the program of written opinions or to file a complaint under any of these statutes should contact the Bureau's Information Centre.

Web site

www.competitionbureau.gc.ca

Address

Information Centre
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Telephone

Toll-free: 1-800-348-5358
National Capital Region: 819-997-4282
TTY (for hearing impaired) 1-800-642-3844

Facsimile

819-997-0324

APPENDIX: COMPETITION BUREAU STATISTICS

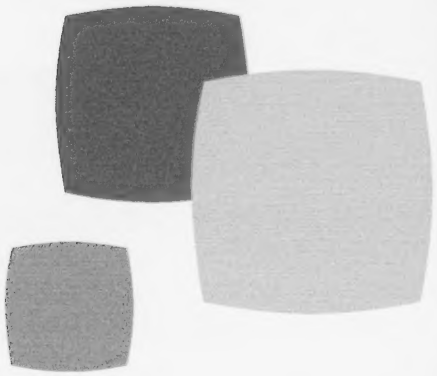


TABLE 1: Competition Bureau Statistics

Law Enforcement Activity	FBPB	Civil	Criminal	Mergers
Inquiries commenced (Number of formal inquiries commenced between April 1, 2010 and March 31, 2011)	5	2	5	6
Inquiries in progress (Number of formal inquiries in progress on April 1, 2010)	32	9	20	1
Inquiries discontinued (Number of formal inquiries discontinued between April 1, 2010 and March 31, 2011)	1	1	3	5
Examinations in progress (Number of examinations in progress on April 1, 2010 - Examinations are complaints and information requests that have been assigned for further assessment as well as orders being reviewed)	47	16	46	11
Examinations commenced (Number of examinations commenced between April 1, 2010 and March 31, 2011)	24	16	24	236
Examinations concluded (Number of examinations concluded between April 1, 2010 and March 31, 2011)	24	9	29	228
Matters where charges were laid (Number of matters where charges were laid between April 1, 2010 and March 31, 2011)	3	-	6	-
Matters where applications were filed (Number of matters where applications were filed between April 1, 2010 and March 31, 2011)	2	1	-	1
Matters with criminal orders (Number of matters where there were orders between April 1, 2010 and March 31, 2011)	0	-	0	-
Convictions	0	-	4	-
Prohibition Orders without convictions	0	-	0	-
Interim injunctions (criminal)	0	-	0	-
Matters with civil orders (Number of matters where there were orders between April 1, 2010 and March 31, 2011)	2	1	-	4
Registered Consent Agreements	1	1	-	4
Final Order in contested proceedings	1	0	-	0
Interim injunctions (civil)	0	0	-	0
Alternative Case Resolutions (Examinations that raised an issue under the Act but were resolved without resort to the Court or Tribunal; these include agreements and voluntary compliance)	7	0	1	1
Compliance Contacts (Information letters and meetings)	33	2	9	-
Information Bulletins and Enforcement Guidelines published (All guidelines published between April 1, 2010 and March 31, 2011 including those for consultation, new publication and those that have been revised)	1	0	4	3
Total Fines Imposed	$0	-	$8.25M	-
Administrative Monetary Penalties	$160,000	0	-	-

TABLE 2: Advocacy of Competition Principles

Advocacy of Competition Principles	
Advocacy under Sections 125 and 126	
• Submission to the Review of the Revised Foreign Investment Policy in Book Publishing and Distribution (September 17, 2010)	1
Representations to regulators outside of formal proceedings	
• Representations and advice to Waste Diversion Ontario on competition principles with regard to design and implementation of waste recycling programs (April 7, 2010).	
• Presentation to the College of Veterinarians of Ontario Members' Forum on regulation in self-regulated professions, with an emphasis on restrictions on advertising (November 18, 2010).	3
• Presentation to the Alberta Regulatory Bodies for Health Professions Quarterly Meeting of Registrars on the importance and principles of effective regulation, and consideration of competition in regulation-making (February 7, 2011).	

TABLE 3: Speeches and Outreach

	FBPB	Civil	Criminal	Mergers	Commissioner
Speeches[1] (Number of times Bureau staff spoke to stakeholders. This includes information sessions and outreach activities, not the number of participants)	9	3	21	21	24
Recruitment Initiatives[2] (Number of presentations made to potential Bureau recruits - this includes seminars)	0	10	13	8	-

[1] In 2010-2011, a Bureau Executive also taught the Competition Law Course at Queen's University, Faculty of Law, with several Bureau officers contributing as guest lecturers.

[2] As part of the fall 2010 University Recruitment Campaign, the Bureau made presentations at 11 Universities across Canada.

TABLE 4: Mergers Examinations

Examinations Commenced	**236**
Notification filings and Advance Ruling Certificate (ARC) requests	218
Notification filings only	5
ARC requests only	181
ARC requests and Notification filings	32
Other examinations	18
Examinations Concluded	**228**
No issues[3] under the *Competition Act*	222
Advance Ruling Certificates issued	135
"No-action" letters[4]	70
Other examinations	17
Concluded with issues under the *Competition Act*	5
Consent Agreements Registered with the Competition Tribunal	4
Foreign remedies resolved Canadian competition concerns	1
Transactions abandoned owing to competition concerns	0
Section 92 applications concluded or withdrawn	0
Transactions abandoned for reasons apparently unrelated to the Commissioner's position	1
Supplementary Information Requests issued in examinations commenced	3
Supplementary Information Requests issued in examinations concluded	4
Total Examinations during the year	**247**
Examinations ongoing at year-end (examinations in progress on March 31st, 2011)	**19**

[3] Examinations assessed where there was no current issue under the Act.

[4] This includes ARC refusals.

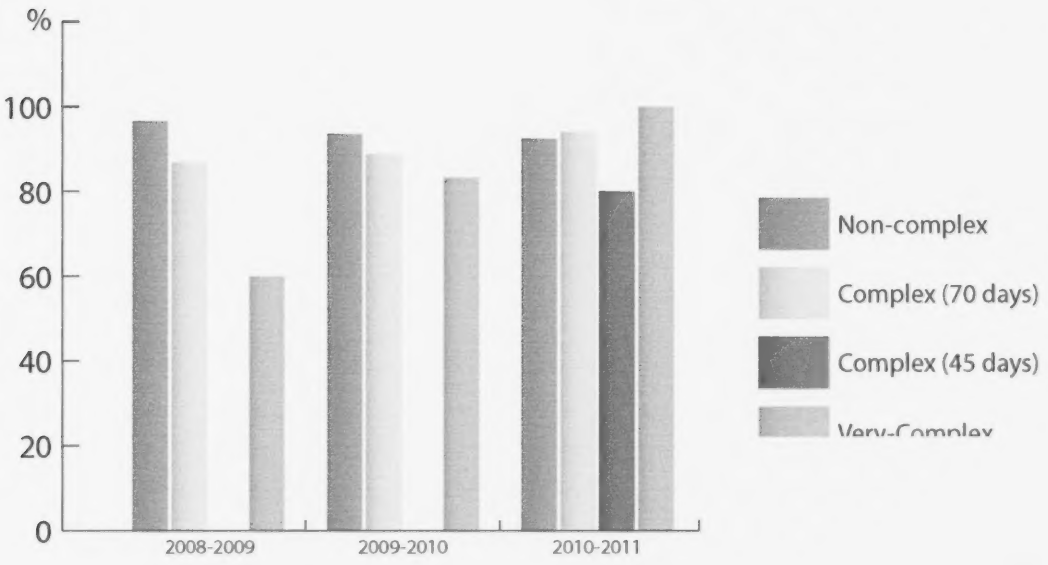
Reviewing Mergers

Number of mergers reviewed where the answer was provided to parties between April 1, 2010 and March 31, 2011, as well as the number of those provided where the service standard was met.

TABLE 5: Merger Review – Meeting Service Standards

	2008-2009			2009-2010			2010-2011		
	Provided	Met	%	Provided	Met	%	Provided	Met	%
Non-complex	180	174	96.67	173	162	93.64	175	162	92.57
Complex[5] (70 days)	23	20	86.96	27	24	88.8	17	16	94.12
Complex (45 days)							10	8	80
Very Complex	5	3	60	6	5	83.33	7	7	100
Total:	208	197	94.71	206	191	92.72	209	193	92.34

CHART 1: Mergers Review – Meeting Service Standards



[5] As of November 1, 2010, the previous complex and very complex categories have been consolidated into a new complex category, with a service standard of 45 calendar days, commencing the day a complete notification or ARC request is received by the Commissioner, assuming sufficient information is provided to assign complexity. However, where a Supplementary Information Request (SIR) is issued, the service standard is 30 calendar days, commencing the day on which the Commissioner receives a complete response to the SIR from all SIR recipients.

TABLE 6: Merger Review – Average Completion Time

	2008-2009	2009-2010	2010-2011
Non-complex (days)	9.59	9.75	11.08
Complex (70 days)	47.46	39.62	34.35
Complex (45 days)	-	-	29.30
Very Complex (months)	8.55	3.09	2.78

Written Opinions

Number of Written Opinions provided between April 1, 2010 and March 31, 2011, as well as the number provided where the service standard was met.

TABLE 7: Written Opinions – Meeting Service Standards

	2008-2009			2009-2010			2010-2011		
	Provided	Met	%	Provided	Met	%	Provided	Met	%
FBPB									
Complex	0	0	0	0	0	0	4	0	0
Non-complex	8	4	50	11	5	45	12	3	25
Civil									
Complex	0	0	0	0	0	0	7[6]	0	0
Non-complex	0	0	0	0	0	0	0	0	0
Criminal									
Complex	0	0	0	0	0	0	7	0	0
Non-complex	1	0	0	0	0	0	0	0	0
Mergers									
Complex	0	0	0	0	0	0	1	1	100
Non-complex	0	0	0	1	1	100	1	1	100
Total:	9	4	44	12	6	50	32	5	16

[6] Of the 7 complex written opinions reported by the Criminal Matters Branch and the Civil Matters Branch, 6 were joint written opinions.